

BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

In the Matter of

Reallocation of Television Channels  
60-69, the 746-806 MHz Band)  
)  
)  
)

ET Docket No. 97-157

To: The Commission

RECEIVED

MAR 12 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**PETITION FOR PARTIAL RECONSIDERATION**

Latin Communications Group Television, Inc., the licensee of low power television stations WVEN-LP, Channel 61, Tampa, Florida, and WVEA-LP, Channel 63, Orlando, Florida, and Los Cerezos Television Company, the licensee of low power television station WMDO-LP, Channel 48, Washington, D.C., hereby petition the Commission to reconsider its Report and Order in the above-captioned proceeding, released January 6, 1998 (the "Report and Order").<sup>1/</sup> (Latin Communications Group Television, Inc. and Los Cerezos Television Company are commonly owned and are hereafter referred to as "Latin.") Specifically, Latin asks that the Commission reexamine its decision not to protect LPTV stations operating on Channels 60-69 from facilities that may be licensed in this band during the DTV transition period.

---

<sup>1/</sup> The Report and Order was published in the Federal Register on February 10, 1998. Accordingly, this Petition for Reconsideration is timely filed. 47 C.F.R. § 1.429(d) (1996).

## **I. Background**

LPTV stations have made tremendous contributions to broadcasting and the public benefit for many years. With the ability to tailor their programming to segments of the public often overlooked by full power operations, LPTV stations have become indispensable resources to the local communities which they serve. For almost two decades, low power television stations have provided valuable informative, educational and entertainment programming to viewers all over the country.

LPTV stations, however, are now faced with a great crisis. The Commission has recognized that in providing all full-service TV stations with a second DTV channel, it will be necessary to displace a number of LPTV stations, particularly in major markets. Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order (“DTV Reconsideration Order”), MM Docket No. 87-268 at ¶ 95. One way that the Commission can ameliorate this crisis is to grant the relief requested by Latin and others.

In the Report and Order, the Commission responded to the Comments filed by Latin and the Association of Local Television Stations, Inc., Cordillera Communications, Inc., Arnold Cruze, KSL Television, Paging Systems, Inc., Paxson Communications Corporation, Trinity Broadcasting Network, Univision Communications, Inc. and Weigel Broadcasting Co., all urging the Commission to protect LPTV stations and TV translators operating on Channels 60-69 during the digital television transition period. Report and Order at ¶ 26. As Latin explained in its original comments, it believes that it will be difficult, if not impossible, for many displaced LPTV stations to secure alternative channels until the DTV transition period ends, at

which time full power television stations will be required to relinquish one of their two channels, thereby freeing up frequencies for use by displaced LPTV stations.<sup>2/</sup> Latin therefore urged the Commission to permit LPTV stations to continue to operate on Channels 60-69 through the DTV transition period. Under Latin's proposal, LPTV stations would continue to be "secondary" to full power television stations, either NTSC or DTV. LPTV stations, however, would be protected from interference from any new facilities resulting from the reallocation of Channels 60-69 until the end of the DTV transition period.

Because the Commission has tried to minimize the allocation of digital allotments on Channels 60-69, in order to facilitate the recovery of this portion of the spectrum and comply with the Balanced Budget Act of 1997 (the "Budget Act"), many LPTV stations currently broadcasting on Channels 60-69 do not conflict with any DTV allocation. DTV Reconsideration Order at ¶¶ 25-29. Furthermore, LPTV stations operating on channels below Channel 60 may relocate to the Channel 60-69 band if they are displaced by DTV stations. DTV Reconsideration Order at ¶ 97. LPTV stations will be allowed to operate on Channels 60-69, provided that such

---

<sup>2/</sup> During the transition to DTV, which is currently scheduled to terminate on December 31, 2006, full power television broadcasters will be allotted two television channels, one for analog broadcasting and one for digital broadcasting. Until the termination date, many broadcasters will operate on both channels. At the end of the DTV transition period, however, all full power television broadcasters will be forced to turn in their analog allotments, thereby freeing up hundreds of channels in the core broadcasting spectrum, Channels 2-51. DTV Reconsideration Order at ¶ 41. Thus, the proposal to protect LPTV stations operating on Channels 60-69 is a stop-gap measure meant to bridge the gap between "displacement" and the end of the DTV transition period. At the end of the transition period, LPTV stations operating on Channels 60-69 would be forced to relocate to Channels 2-51 or cease operations.

operations do not cause harmful interference to any primary operations until the end of the DTV transition period. DTV Reconsideration Order at ¶¶ 31, 97.

In the Report and Order, the Commission rejected, with little discussion, the requests of Latin and others that LPTV stations be protected from interference from facilities to be allocated to Channels 60-69 pursuant to ET Docket No. 97-157. The Commission's rationale for rejecting the proposal was brief: "The request to provide interference protection for LPTV and TV translators is incompatible with the allocations for public safety and commercial services required under the Budget Act. Such action would preclude access to the spectrum throughout much of the nation." Report and Order at ¶ 31.

**II. The Public Interest Favors Protection of LPTV Stations on Channels 60-69 Through the End of the DTV Transition Period.**

An examination of the Channels 60-69 reallocation timetable reveals that protection of LPTV stations broadcasting on Channels 60-69 through the end of the DTV transition period need not upset the Commission's recovery of this spectrum. The Commission must commence assignment of licenses for public safety services to operate on Channels 63, 64, 68 and 69 no later than September 30, 1998. Budget Act, § 3004; Report and Order at ¶ 13. However, competitive bidding for commercial services to operate on Channels 60-62 and 65-67 may not even commence until *after January 1, 2001*. Budget Act, § 3004; Report and Order at ¶¶ 5, 17. Therefore, at least as to these commercial services, protection of LPTV stations on Channels 60-69 until the end of the DTV transition period, which is scheduled to terminate on

December 31, 2006, would create only a brief delay in the commencement of operation of these facilities.

Given that the protection of LPTV stations on Channels 60-69 through the end of the transition would only briefly delay partial implementation of operation by the new Channel 60-69 licensees, Latin believes that it is appropriate to weigh the public interest in the protection of *existing LPTV service* through the end of the DTV transition period against the early *introduction of entirely unknown* commercial services that may interfere with the operations of these established LPTV stations. Based on the Report and Order, it seems as if the Commission has made an implicit value judgment that gives greater merit to the provision of new facilities than to the continued service by existing stations that have been broadcasting for years. It is difficult to understand how this judgment could be made without any analysis of what these new commercial services might be, what segment of the public would benefit, and a determination that this segment has a greater need for these operations than an LPTV station's audience has for the station's service.

Latin believes that the public interest would be better served by requesting the licensees of the yet-to-be-created allocations in Channels 60-69 to protect LPTV stations until the DTV transition period ends. LPTV stations have provided valuable services to their communities for many years. In contrast, it is not yet clear what public benefits may be derived from the facilities yet to begin operation, offering services that have not even been identified. Moreover, the protection of LPTV stations through the end of the DTV transition period will have little impact on the new Channel 60-69 licensees. A brief delay in the commencement of

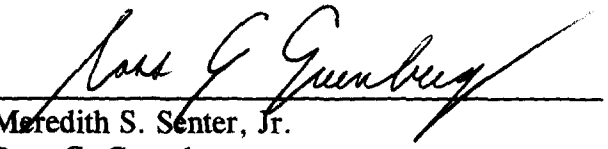
operation of these new facilities can mean the difference between an LPTV station's continued service to its community and its untimely demise.

Low power television stations have a long history of providing valued service to the communities they serve. The Commission has stated that it is "committed to take reasonable steps to reduce the impact [of the DTV transition and reallocation of Channels 60-69] on such operations . . . ." Report and Order at ¶ 28. But the Commission's current plans for the transition and reallocation do not adequately provide LPTV stations broadcasting on these channels with alternatives to mitigate the loss of these channels for LPTV service. Latin urges the Commission to provide for the protection of LPTV stations broadcasting on Channels 60-69, by requiring that newly-licensed operators of newly-allocated services in the band protect LPTV stations until the end of the DTV transition period.

Respectfully submitted,

**LATIN COMMUNICATIONS GROUP  
TELEVISION, INC.**

**LOS CEREZOS TELEVISION COMPANY**

By:   
Meredith S. Senter, Jr.  
Ross G. Greenberg

Leventhal, Senter & Lerman P.L.L.C.  
2000 K Street, NW  
Suite 600  
Washington, D.C. 20006

March 12, 1998

Their Attorneys